

No. 26-5057

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

RAMSI A. WOODCOCK

Plaintiff-Appellant,

- v. -

UNIVERSITY OF KENTUCKY; ELI CAPILOUTO, IN HIS OFFICIAL AND
INDIVIDUAL CAPACITIES; ROBERT DIPAOLO, IN HIS OFFICIAL AND
INDIVIDUAL CAPACITIES; WILLIAM EUGENE THRO, IN HIS OFFICIAL
AND INDIVIDUAL CAPACITIES; JAMES C. DUFF, IN HIS INDIVIDUAL
CAPACITY; LINDA MCMAHON, IN HER OFFICIAL CAPACITY AS UNITED
STATES SECRETARY OF EDUCATION; RUSSELL MATTHEW COLEMAN,
ATTORNEY GENERAL; GREGORY F. VAN TATENHOVE, IN HIS OFFICIAL
CAPACITY

Defendants-Appellees.

On Appeal from the United States District Court
for the Eastern District of Kentucky at Lexington
(Docket No. 5:25-cv-00424-DCR)

**PLAINTIFF’S EMERGENCY MOTION FOR
IMMEDIATE ISSUANCE OF THE MANDATE**

[SAME-DAY DECISION REQUESTED]

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PLAINTIFF’S REQUEST FOR SAME-DAY ACTION

Pursuant to Federal Rule of Appellate Procedure 41(b), Plaintiff-Appellant Ramsi A. Woodcock (“Plaintiff”) respectfully moves this Court for issuance of the mandate in this case **no later than *today*, August 26, 2026**, or as soon thereafter as possible. That would permit the District Court to decide Plaintiff’s motion for a preliminary injunction on an emergency basis and to lift Plaintiff’s suspension within the next two to three weeks—in time for Plaintiff to return to teaching *this semester* (which started this past Monday, August 24, 2026). In order to permit this Court to rule on the instant emergency motion today, Plaintiff further respectfully requests that this Court exercise its authority to “shorten[]” “the time” in which Defendants University of Kentucky, Capilouto, Thro, DiPaola, Duff, Van Tatenhove, and McMahon (“Defendants”) “may file a response” to *the end of the business day*, or alternatively, to exercise its authority to “suspend any provision of these rules in a particular case” for “good cause” to rule on this motion without awaiting a response. Fed. R. App. P. 2(a); Fed. R. App. P. 27(a)(3)(A).

ARGUMENT

A. The Court Should Immediately Issue the Mandate in Order to Allow the District Court to Take Advantage of a Two-to-Three-Week Window to Return Plaintiff to Teaching this Semester

On August 24, 2026, which was the first day of the fall semester at the University of Kentucky J. David Rosenberg College of Law (“law school”),¹ this Court issued its opinion and judgment in this case, reversing the District Court’s decision to abstain under *Younger. Woodcock v. University of Ky., et al.*, No. 36-5057, slip op. at 5 (6th Cir. Aug. 24, 2026). This Court further ordered a remand of the case to the District Court to consider Plaintiff’s motion for a preliminary injunction returning him to teaching at the law school. *Id.* In issuing an opinion within twenty-seven days of oral argument, this Court acted with appropriate urgency and consistent with the order of this Court expediting briefing and submission of this case. Exped. Brief. & Submiss. Ord. at 1, Dkt. 41. This Court issued that order in response to Plaintiff’s request for “a ruling on his appeal in time to be added to the course schedule for the fall semester of 2026.” Mot. Expedite App. at 6, Dkt. 38-1. During oral argument, counsel for Plaintiff also

¹ Univ. of Ky. J. David Rosenberg Coll. of L., *College of Law Calendar -- Tentative* (last visited Aug. 26, 2026), <https://law.uky.edu/sites/default/files/2026-04/2026-2027-approved-academic-law-calendar.pdf>.

informed the Court that the fall term would start on August 24, 2026, and that Plaintiff desired an order returning him to teaching this semester.

Because “[c]lasses during the first week or two of the semester are usually non-substantive or introductory in nature” and the law school “occasionally” “substitutes teaching assignments during or immediately after this period”, Plaintiff has a rapidly closing two-to-three-week window to obtain an order from the District Court returning him to teaching during the fall semester. Woodcock Decl. ¶ 1, Jan. 21, 2026, R. 42-6, Page ID# 2120. Issuance of the mandate by the end of the day on August 26, 2026, would permit Plaintiff to request that oral argument in the District Court on the merits of Plaintiff’s motion for a preliminary injunction be held either at the end of this week or next week. As the District Court held a daylong merits hearing in December 2025, and the parties fully briefed Plaintiff’s motion for a preliminary injunction at that time, the District Court could then decide Plaintiff’s motion based on oral argument, the briefs, and the hearing transcript either before or immediately after Labor Day. Mem. Supp. Mot. Prelim. Inj., R. 19-1; Resp. Mot. Prelim. Inj., R. 26; Reply Supp. Mot. Prelim. Inj., R. 34; Hearing Tr., R. 40. That would be within the two-to-three-week window necessary for Plaintiff to return to teaching this semester. On its website, the law school continues to list Plaintiff as the “pending” instructor for both of his regular fall

term courses—Antitrust and Secured Transactions.² Because the scheduling of oral argument in the District Court is constrained by the schedules of the District Court, counsel for Plaintiff, and counsel for University Defendants, as well as the impending Labor Day holiday, delay in issuance of the mandate by even a single day threatens to preclude a resolution of the preliminary injunction motion in time for Plaintiff to return to teaching.

If the two-to-three-week window to return to teaching is missed, Plaintiff's next opportunity to return to teaching would be in early January 2027—a delay of eighteen weeks. Every single day that Plaintiff remains barred from teaching causes Plaintiff ongoing and irreparable First Amendment and professional harm. *See* Woodcock Decl. ¶¶ 2, 7, 8, 13, Jan. 2, 2026, R. 34; Woodcock Decl. ¶¶ 7–9, Feb. 11, 2026, Dkt. 27-2; *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”). Plaintiff is physically prevented from addressing students in the classroom context, developing mentoring relationships with them, honing his talents as a teacher, or developing fresh teaching evaluations to serve as a basis for a lateral transfer to another school. Because Woodcock has already been

² Univ. of Ky. J. David Rosenberg Coll. of L., *Course List Fall 2026* (Aug. 21, 2026), https://law.uky.edu/sites/default/files/2026-08/f26-course-list-admin-use-only-color-coded_2.pdf.

barred from teaching for a full year, and the law school offers his upper-level courses on Antitrust and Secured Transactions only in the fall semester, approximately one hundred and thirty students in this year's graduating class will *never* have an opportunity to take Antitrust or Secured Transactions with Plaintiff if Plaintiff does not return to teaching this semester. And Plaintiff will never have an opportunity to impart to them his ideas in Antitrust, which is a focus of his research. Hearing Tr., R. 40, Page ID # 1809:1–2.

This Court “may shorten” “the time” for issuance of the mandate “by order.” Fed. R. App. P. 41(b). If this Court does not shorten the time for issuance of the mandate, then the District Court will not have the time that it needs to restore Plaintiff to the classroom this semester. Federal Rule of Appellate Procedure 41(a) governs the normal timing for issuance of the mandate. It provides that the mandate “must issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order” on a petition for rehearing, “whichever is later.” Fed. R. App. P. 41(a). Thus this Court’s mandate would normally issue at least 21 days after judgment, which would be too late to allow the District Court to act within the two-to-three-week window required to return Plaintiff to teaching this semester.

B. There Is No Prejudice to Defendants Because They Lack Grounds for Petitioning for Rehearing and Anyway in the Unlikely Case That This Court Grants a Petition This Court Can Recall the Mandate

Issuance of the mandate today would deny Defendants the benefit of the minimum 21-day stay that would otherwise be imposed before issuance of the mandate. That would not, however, prevent Defendants from petitioning for rehearing in this Court. And, if this Court were to grant a rehearing petition, the Court could, under such an “exceptional circumstance[]”, “recall [the] mandate, in effect reopening the case, without limit of time[.]” *Patterson v. Haskins*, 470 F. 3d 645, 661 (6th Cir. 2006) (cleaned up). While that might impose a procedural burden on Defendants, that burden pales in comparison to the irreparable harm suffered by Plaintiff if he is prevented from returning to teaching this semester. *Elrod*, 427 U.S. at 373. And even if the burden of recalling the mandate were greater, there would be no prejudice to Defendants because this Court is highly unlikely to grant rehearing in this case.

This Court will grant a petition for rehearing only where (1) a question of exceptional importance is presented or the panel’s decision conflicts with a decision of the (2) U.S. Supreme Court, (3) this Court, or (4) another U.S. Court of Appeals. Fed. R. App. P. 40(b)(2). None of these situations applies. Overturning this Court’s ruling is not a matter of exceptional importance. A decision to *abstain* on a First Amendment challenge could well constitute a matter of exceptional

importance because it might mistakenly foreclose constitutional review. But this Court's decision to *permit* constitutional review of an investigation, suspension, and ban of a faculty member cannot be a matter of exceptional importance. It does not present the same possibility of denial of access to constitutional review or similar grave injustice. Defendants will have ample opportunity to defend their policies in the District Court.

No U.S. Supreme Court precedent has been violated. This Court reversed the District Court on the ground that the “underlying state proceedings”, which this Court assumed without deciding to be “civil enforcement proceedings”, “are not ongoing” because “the disciplinary proceedings against Woodcock remain in a preliminary, investigatory stage” and “the University” has not “filed a formal complaint against him” *Woodcock*, slip op. at 4. No U.S. Supreme Court case has affirmed abstention from an investigation prior to the filing of formal charges in a civil enforcement proceeding. University Defendants cited none in their appellate briefs.

Similarly, no binding decision of this Court or another court of appeals has been violated. As this Court noted, its decision is consistent with this Court's opinion in *Winter v. Wolnitzek*. 834 F.3d 681, 688 (6th Cir. 2016); *Woodcock*, slip op. at 4–5. University Defendants cited to no conflicting Sixth Circuit authority in their appellate briefs. Finally, this Court's opinion is consistent with the law in

seven other courts of appeals. *Guillemard-Ginorio v. Contreras-Gomez*, 585 F. 3d 508, 510 (1st Cir. 2009); *Telco Communications, Inc. v. Carbaugh*, 885 F. 2d 1225, 1226–27 (4th Cir. 1989); *Louisiana Deb. and Lit. v. N. Orleans*, 42 F. 3d 1483, 1486–88, 1490–91 (5th Cir. 1995); *Mulholland v. Marion*, 746 F. 3d 811, 813, 815, 81 (7th Cir. 2014); *Canatella v. California*, 304 F. 3d 843, 848, 851–52 (9th Cir. 2001); *PDX v. Commissioner*, 978 F. 3d 871, 877-78, 885-87 (3d Cir. 2020); *Major League Baseball v. Crist*, 331 F. 3d 1177 (11th Cir. 2003) (silently affirming *Major League Baseball v. Butterworth*, 181 F. Supp. 2d 1316, 1320–21 (N.D. Fla. 2001)). In their appellate briefs, neither Defendants nor Plaintiff identified any contrary authority in any of the remaining courts of appeals.

CONCLUSION

Plaintiff respectfully requests that this Court issue the mandate today or as soon thereafter as possible and either reduce the time for Defendants to respond to this motion close of business today or decide the motion without waiting for a response.

REQUIRED ATTACHMENTS

Pursuant to Sixth Circuit Local Rule 27(c)(2), Plaintiff has attached to this emergency motion copies of the notice of appeal (Exhibit 1), the District Court’s order from which Plaintiff appealed (Exhibit 2), and this Court’s opinion and judgment (Exhibit 3).

Dated: August 26, 2026

Respectfully submitted,

/s/ Rima Kapitan

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INDEX OF EXHIBITS

Exhibit 1: Notice of Appeal

Exhibit 2: Order Appealed From

Exhibit 3: Opinion and Judgment

TYPE-VOLUME CERTIFICATION

Pursuant to Federal Rule of Appellate Procedure 32(g), I hereby certify that this motion complies with the type-volume limitation in Rule 27(d)(2)(A) because, as counted by the Microsoft Word word count tool, this motion contains 1,825 words, excluding the parts exempted by Rule 32(f). This motion complies with the typeface requirements in Rule 32(a)(5)(A) and the type-style requirements in Rule 32(a)(6) because this motion has been prepared in proportionally spaced 14-point Times New Roman font.

Dated: August 26, 2026

/s/ Rima Kapitan

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CERTIFICATE OF SERVICE

I certify that on August 26, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit using the CM/ECF system. I also certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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